

REMARKSObviousness Rejection of Claims 1-10, 12-14 and 15-20

The Examiner has advanced an obviousness rejection. Taking the independent claims first (claims 1, 15, 19 and 20), The Examiner contends that Kutcher discloses all of the subject matter recited in these claims, except that Kutcher fails to disclose the termination flag being immutable once set. The Examiner contends that it would have been obvious to modify Kutcher to include the "immutable" feature.

Applicant respectfully traverses the rejection. In particular, Applicant respectfully submits that the Examiner has failed to advance a proper rejection, since the Kutcher fails to disclose various features of the subject matter recited in the claims. In addition, Applicant respectfully submits that the reason advanced by the Examiner for modifying Kutcher is improper. We now discuss our submissions in detail.

The Examiner first refers to col. 5, lines 6-29 of Kutcher for its alleged disclosure of immediately causing an exception and terminating a thread's execution. The Examiner then refers to col. 5, lines 44-68 of Kutcher for its alleged disclosure of ignoring at least one exception handler and a finally clause of the first thread, executing to completion and executing normally.

Unfortunately, these two portions of Kutcher are mutually exclusive. Lines 6-29 of Kutcher describe a invoking a Thread.stop() method to stop a thread. As there noted, using this method, "it will immediately cause an exception and terminate the thread's execution and terminate the thread's execution. The stop( ) method is not constrained to halt execution of the thread at any particular point, so there is no way to determine where among these instructions execution will be stopped." (col. 5, lines 13-17)

Kutcher goes on to propose that it is preferable to instead stop a thread by allowing the run( ) method to complete execution. As Kutcher notes at col. 5, lines 61-62, "Because the run( ) method executes to completion, no exception handling is required . ." The Examiner appears to believe that this statement implies the feature recited in the claims of "ignoring at least one exception handler . ." What the Examiner appears to disregard, however, is that "no exception handling is required" because no exception even occurs. This is because the thread "completes execution and exits normally" (col. 5, lines 57-58) "[I]f the target variable is set to indicate that the thread should be stopped . . ." Where no exception occurs, there is no exception handler to be ignored.

Thus, for at least the reason that Kutcher fails to disclose "ignoring at least one exception handler" as recited in claim 1, and contrary to the allegations of the Examiner, the Examiner has failed to make a proper case of obviousness. In addition, as discussed in detail below, the Examiner has not advanced a proper reason for modifying Kutcher as proposed.

That is, even assuming arguendo that Kutcher included all the features recited in claim 1 except for the value of the termination flag being immutable once set, the Examiner has not set forth a proper motivation to modify Kutcher such that the value of the termination flag is immutable once set.

In particular, after noting that Kutcher "fails to teach of, a value of the termination flag being immutable once set," the Examiner states that "it is well known in the art that a flag is a signal indicating the existence or status of a particular condition." First of all, the fact that a feature is "well known in the art" does not provide motivation for modifying the disclosure of a primary reference to include the allegedly well-known feature.

Furthermore, the Examiner contends that it would have been obvious "to make the status variable immutable in order to be able to check its status periodically, for the reason to be able to check it and not generating the status variable over time periods and increase efficiency. However, accepting the Examiner's premise that Kutcher's "target variable" discloses the "termination flag" and that Kutcher does not disclose that the value of the target variable is immutable once set, Kutcher appears to be able to check the status of the target variable periodically even though the value of the Kutcher target variable is not disclosed to be immutable. Therefore, the Examiner's alleged motivation that one of ordinary skill in the art would find the modification to be obvious is without factual basis since the Examiner has not alleged any facts of a deficiency in the Kutcher disclosure (i.e., not being able to adequately check the status of the target variable, and inefficiencies) that would be addressed by the proposed modification.

The rejections of the other independent claims, claims 15, 19 and 20 are improper for at least reasons similar to the reasons that the rejection of claim 1 is improper. Furthermore, the rejections of the dependent claims (claims 2-10, 12-14 and 15-18) rely on the same reasoning used to reject the base claims and, thus, the rejections of the dependent claims are also improper for at least similar reasons.

Applicant thus respectfully requests the Examiner to withdraw the rejection of claims 1-10, 12-14 and 15-20.

#### Obviousness Rejection of Claim 11

Claim 11 is rejected as being obvious over Kutcher in view of Nilsen. The rejection of claim 11 relies on the same reasoning as the rejection of claim 1, except that the Examiner contends that the Nilsen reference is specifically cited for the feature specifically recited in claim 11. Applicant respectfully submits that the rejection of claim 11 is improper for at least reasons similar to the reasons that rejection of claim 1 is improper.

Applicant thus respectfully requests the Examiner to withdraw the rejection of claim 11.

Applicant believes that all pending claims are allowable and respectfully requests a Notice of Allowance for this application from the Examiner. Should the Examiner believe that a telephone conference would expedite the prosecution of this application, the undersigned can be reached at the telephone number set out below.

Respectfully submitted,  
BEYER WEAVER & THOMAS, LLP



Alan S. Hodes  
Reg. No. 38,185

P.O. Box 778  
Berkeley, CA 94704-0778  
(650) 961-8300